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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,797	10/25/2001	Paul Eusterbrock	13414/311	6941
7590	01/13/2004			EXAMINER ZEADE, BERTRAND
Oppenheimer Wolff & Donnelly LLP Suite 3300 45 South Seventh Street Minneapolis, MN 55402-1609			ART UNIT 2875	PAPER NUMBER

DATE MAILED: 01/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/037,797	EUSTERBROCK ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Bertrand Zeade	2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 July 0223.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-4 and 6-8 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-3 and 6-8 is/are rejected.

7) Claim(s) 4 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "The plurality of halogen light bulb units which are "HALOPIN" is a trademarks which renders the scope of claim 4 uncertain since the trademark or trade name cannot be used properly to identify any particular material or product.

### ***Claim Rejections - 35 U.S.C. § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavy (U.S.6,059,426) in view of Leen (U.S.5,984,490).

Lavy ('426) discloses a lamp head incorporated with anti-combustion arrangement having:

Regarding claim 1 as shown in (figs. 1,2,3B), a housing or head (10), a bulb unit (52) generally uniformly spaced within the housing (10), a shield (53)

Regarding claim 1 as shown in (figs. 1,2,3B), a housing or head (10), a bulb unit (52) generally uniformly spaced within the housing (10), a shield (53) connected to the housing, for inhibiting access to the light bulb unit (52) from above. The shield (53) is positioned such that the halogen light bulb unit is between the shield (53) and the housing. The halogen light bulb (52) and the shield (53) configured such that the temperature of the shield (53) on a surface opposite the halogen bulb stays below 500° F well known to those skilled in the art of halogen lamps.

Regarding claim 2, there is a vent area (611) for heated air from the lamp (52).

Regarding claim 3, there is a heat sensor (90) placed within the housing, for shutting off the light bulb units at a threshold temperature.

Regarding claim 6, there is a tilt switch for shutting off the light bulb (52) when the housing is moved from a specified orientation.

Regarding claim 7, there is a torchère base member (31) for supporting the housing, the halogen light bulb unit (52) and the shield (53); and a torchere support member (32) disposed between the base member and the housing; wherein the shield (53) limits access to the halogen light bulb unit from above (see figs. 6-7).

Regarding claim 8, there is a housing or head (10), a bulb unit (52) generally uniformly spaced within the housing (10). The halogen light bulb unit having a total lighting power generally equal to a single high-watt halogen bulb system. A shield (53) is connected to the housing (see figs.6-7) for inhibiting

access to the light bulb unit (52) from above. The shield (53) is positioned such that the halogen light bulb unit is between the shield (53) and the housing. The halogen light bulb (52) and the shield (53) are configured such that the temperature of the shield (53) on a surface opposite the halogen bulb stays below 500\* F well known to those skilled in the halogen lamp art.

Lavy ('426) does not disclose a plurality of halogen light bulb units.

Leen ('490) discloses a portable double-bulb halogen work light/floodlight having:

Regarding claims 1 and 8, a plurality of halogen light bulb units (21, 23) generally uniformly spaced within the housing (see fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the lamp head incorporated with anti-combustion arrangement of Lavy ('426) with the plurality of halogen light bulb units as taught by Leen ('490), since the illumination device of Leen ('490) would provide a plurality of halogen lamps. The halogen bulbs including an open-sided housing in which at least two halogen bulbs are located. The use of two bulbs allows the illumination device to be used as a low highlight output or a highlight output for outdoor or indoor used.

#### ***Response to Arguments***

1. Applicant's arguments filed 10/7/03 have been fully considered but they are not persuasive.
2. Applicants state that: their "invention is generally a fire-safe lighting system that relies on multiple lower wattage halogen light bulbs used in the prior

art halogen lighting system: For example, one embodiment the invention uses five 60-watts bulbs to obtain the same wattage as a single 300 watt bulb. In response to applicants' argument on one hand, that the references fail to show certain features of applicants' invention, it is noted that the features upon which applicant relies (i.e., the invention is generally a fire-safe lighting system that relies on multiple lower wattage halogen light bulbs used in the prior art halogen lighting system: For example, one embodiment the invention uses five 60-watts bulbs to obtain the same wattage as a single 300 watt bulb) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). On the other hand, Leen ('490) does teach Applicants' claimed invention (see Leen's (col.1, lines 33-34). In this regard, the use of the halogen bulbs falls between 150 watts to 500 watts. Leen ('490) uses 500 watts bulbs one hand. On other hand, Leen could use two 150 watts bulbs to obtain the same 300 watts as a single 300 watts bulb.

Applicants' further state that "Lavy does not contemplate or consider that the intense heat produced may be abated through methods alternative to that proposed in Lavy.

In response to Applicants' argument, Lavy ('426) does teach over Applicants' claimed invention (see Lavi's col. 5, lines 13-44). In this respect, Lavy ('426) has set up an anti-combustion system which includes the teaching of Applicants' claimed limitations such as heat sensor and cooling.

3. Applicants cite that there is no suggestion or motivation to combine Lavy ('426) and Leen ('490). In response to applicants' argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as Lavy and Lee belong to the same field of applicants' endeavor they are reasonably pertinent to applicants' claimed invention.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bertrand Zeade whose telephone number is 703-308-6084 or 571-272-2387. The examiner can normally be reached on 9:30 AM to 6:00 PM Examiner is in the process of moving to a new location. Hence, Applicant is advised to use the second telephone number if the first number is off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 703-305-4939 or 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. The supervisor is in the process of moving to a new location. Hence, Applicant is advised to use the second telephone number if the first number is off.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Bertrand Zeade  
Examiner  
Art Unit 2875

  
